

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Michael Tillman, et al,

Plaintiff,

v.

Civil Action No. 04-40107-GAO

Johnson Divsersey, Inc.,

Defendant.

ORDER ON APPLICATION TO
PROCEED WITHOUT PREPAYMENT OF FEES

Now before the Court is plaintiff **JOHN P. SMITH'S** application to proceed without prepayment of fees and affidavit under 28 U.S.C. § 1915:

FINDINGS

- A. Is plaintiff a "prisoner" as defined in 28 U.S.C. § 1915(h) and/or 28 U.S.C. § 1915A(c):
- Yes ☒ No ☐
- B. Is a filing fee under 28 U.S.C. § 1915(b) to be assessed at this time:
1. Yes ☒ Plaintiff is obligated to pay 1/3 of the entire statutory filing fee immediately (\$50.00). See 28 U.S.C. § 1915(b)(1); 28 U.S.C. § 1914 (total fee of \$150.00 for a civil action).
 2. Yes ☐ An initial partial filing fee of _____ is assessed pursuant to 28 U.S.C. § 1915(b)(1). The remainder of the fee _____ is to be assessed in accordance with 28 U.S.C. § 1915(b)(2).
 3. Yes ☐ Plaintiff has proffered evidence of being without funds for six months and being currently without funds. Under 28 U.S.C. § 1915(b)(2), plaintiff is assessed an obligation to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account until the \$150.00 filing fee is paid in full.
 4. No ☐ Plaintiff is not assessed an initial partial filing fee or obligation to make monthly payments at this time.

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ORDERS

Based upon the foregoing:

1. The application to proceed without prepayment of fees is GRANTED.

Yes ☒ No ☐

2. If a filing fee assessment has been made under paragraph B above, is it a provisional finding that is subject to early modification:

Yes ☐ No ☒

If the above answer is Yes, the following applies:

If the plaintiff files, within 35 days of the date of this Order, a certified copy of his/her prison trust account or a statement signed by plaintiff under the pains and penalties of perjury demonstrating eligibility to proceed in this action without paying an initial partial filing fee or without payment of any fee assessed above, the Court will consider the certification or statement in determining whether to modify any fee assessment under 28 U.S.C. § 1915(b)(2).

3. The Clerk shall send a copy of this Order to the institution having custody of plaintiff:

Yes ☒ No ☐

4. FURTHER, having completed the screening on the merits of plaintiff's complaint pursuant to Sections 1915(e)(2) and/or 1915A, the Clerk shall issue summonses and the United States Marshal serve a copy of the complaint, summons and this order as directed by the plaintiff with all costs of service to be advanced by the United States?

No ☐ Yes ☒ as to all defendants
☐ only as to defendant(s)

SO ORDERED.

August 24, 2004

/s/ George A. O'Toole